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Attorneys for Defendant

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

TIMOTHY GREEN, individually and  
on behalf of all others similarly situated,

Plaintiffs,

v.

PHILLIPS 66 COMPANY, a Delaware  
Corporation, and DOES 1-50, inclusive,

Defendants.

Case No. 2:18-cv-9083-DSF (JPRx)

**JOINT STIPULATION AND  
[PROPOSED] ORDER RE RELIEF  
FROM LOCAL RULE 23-3 TO FILE  
CLASS CERTIFICATION  
MOTION; DECLARATION OF  
GREGORY MAURO**

Complaint Filed: July 23, 2018  
Case Removed: October 22, 2018

Presiding Judge: Dale S. Fischer  
Magistrate Judge: Jean P. Rosenbluth

**STIPULATION/[PROPOSED] ORDER RE RELIEF FROM LOCAL RULE**

**JOINT STIPULATION**

Plaintiff TIMOTHY GREEN (“Plaintiff”) and Defendant PHILLIPS COMPANY (“Defendant”) (collectively, the “Parties”), through their undersigned counsel, hereby stipulate and agree pursuant to Court Order for relief from the time limits imposed by Local Rule 23-3 for Plaintiff to file his motion for class certification, subject to further modifications as agreed to by the Parties, and subject to the Court’s approval;

WHEREAS: The U.S. District Court, Central District of California's Civil LR 23-3 requires a proponent of a class to file a motion for class certification within ninety days following the service of the complaint or removal of the action;

WHEREAS: This Court is empowered to vacate or continue the deadline imposed by LR 23-3 pursuant to Fed. R. Civ. P. 6(b) ("The district courts may extend many of the time periods set by the Rules.");

WHEREAS: Plaintiff filed his Complaint in the above-captioned matter on July 23, 2018 in the Los Angeles County Superior Court, Case No. BC7173777, for: (1) failure to pay minimum wages, (2) failure to pay overtime (3) failure to provide meal periods, (4) failure to authorize and permit rest periods, (5) failure to timely pay wages, (6) failure to provide accurate itemized wage statements, and (7) for unfair competition. (*See* Declaration of Gregory Mauro (“Mauro Decl.”) at ¶ 2); (*See* Dkt. No. 1-1);

WHEREAS: Defendant was served with the Summons and the operative Complaint on September 21, 2018 (Mauro Decl., at ¶ 3);

WHEREAS: on October 22, 2018, Defendant filed a Notice of Removal to the United States District Court for the Central District of California (Dkt. No. 1) (Mauro Decl., at ¶ 4);

WHEREAS: on October 29, 2018, Defendant filed their Answer to the Complaint. (Mauro Decl. at ¶ 5); (*See* Dkt. No. 10 );

WHEREAS: Plaintiff’s current deadline to file his motion for class

1 certification is January 18, 2019 (Mauro Decl., at ¶ 6);

2 WHEREAS: several reasons exist for the Court to find good cause to vacate  
3 the ninety-day deadline imposed by LR 23-3 (Mauro Decl., at ¶¶ 7-18);

4 WHEREAS: the Court has yet to hold a scheduling conference or set any  
5 trial dates in this matter (Mauro Decl., at ¶ 8);

6 WHEREAS: formal discovery cannot be undertaken as the Parties' have not  
7 yet had a Conference of Counsel pursuant to Rule 26(f) and LR 26-1 (Mauro Decl.,  
8 at ¶ 9);

9 WHEREAS: Unlike other motions that could be brought prior to conducting  
10 discovery, a motion for certification requires obtaining evidence outside the  
11 pleadings. This case is no exception, as it alleges violations of California's wage  
12 and hour laws, which are certified only after substantial discovery, the most time-  
13 consuming of which includes class member interviews and a statistically-relevant  
14 sampling of documents (*e.g.*, time sheets and wage statements). Thus, the  
15 anticipated amount of necessary discovery in this complex putative wage and hour  
16 class action needed to establish the class certification requirements of Rule 23 and  
17 in consideration of the parties right to contest the appropriateness and availability of  
18 some or all of the other party's proposed pre-certification discovery, further  
19 supports the Parties' requested relief from LR 23-3 (Mauro Decl., at ¶ 11);

20 WHEREAS: courts in this District have routinely vacated the deadline  
21 imposed by LR 23-3. *See Misra v. Decision One Mortgage Company, LLC*, 2008  
22 WL 7242774, \*4 (C.D. Cal. 2008); *Clark v. Time Warner Cable et al.*, 2007 WL  
23 1334965, \*1 (C.D. Cal. 2007). And the Ninth Circuit has deemed LR 23-3's 90 day  
24 timeframe to be unrealistic, obsolete, and inconsistent with the federal rules and the  
25 current class certification standards, (*see Balser v. Hain Celestial Grp., Inc.*, 640  
26 Fed. Appx. 694, 696 (9<sup>th</sup> Cir. 2016)), as courts impose a "rigorous analysis"  
27 standard for class certification which requires significant evidence and support to  
28 determine whether Rule 23(a) has been satisfied. *See Comcast Corp. v. Behrend*,

1 569 U.S. 27, 33 (2012). The Ninth Circuit has also agreed and reversed a district  
 2 court's decision to not extend the 90-day deadline, holding that "the bright-line of  
 3 Local Rule 23-3 is incompatible with Federal Rule of Civil Procedure 23." *ABS*  
 4 *Entertainment, Inc. v. CBS Corp.* 2018 WL 3966179, 21 (9<sup>th</sup> Cir. Aug. 20, 2018).  
 5 Thus LR 23-3 stands to be incompatible with the current standards of class  
 6 certification;

7 WHEREAS: This is the first request for any extension by the Parties  
 8 regarding LR 23-3 and no prior extensions have been granted, and whereby the  
 9 deadline to file Plaintiff's motion for class certification has not yet expired (Mauro  
 10 Decl., at ¶ 19 );

11 **NOW, THEREFORE, IT IS STIPULATED** by and between the parties,  
 12 through their counsel of record, subject to the Court's approval, that the time limits  
 13 imposed by Local Rule 23-3 for Plaintiff to file his motion for class certification is  
 14 hereby vacated and the Parties' respectfully request the Court adopt the Parties'  
 15 proposed briefing schedule as follows:

- 16 1. Plaintiff's deadline to file his motion for class certification shall be due on  
 17 or before August 30, 2019;
- 18 2. Defendant's opposition to Plaintiff's motion for class certification shall be  
 19 due on or before October 29, 2019;
- 20 3. Plaintiff's Reply in support of his motion for class certification shall be  
 21 due on or before November 28, 2019; and
- 22 4. The hearing date for Plaintiff's motion for class certification shall be  
 23 determined during the March 4, 2019 scheduling conference.

24 **IT IS SO STIPULATED.**

1 Dated: December 14, 2018

JAMES HAWKINS APLC

2 By: /s/ Gregory Mauro

3 James R. Hawkins

4 Gregory Mauro

Michael Calvo

5 Attorneys for Plaintiff

6 TIMOTHY GREEN, individually and on  
behalf of all others similarly situated

7 Dated: December 14, 2018

**WINSTON & STRAWN LLP**

8 By: /s/ Annette Salazar-Shreibati

9 Michael C. Chamberlin

10 Annette Salazar-Shreibati

11 Matthew Seipel

12 Attorneys for Defendant

13  
14  
15 I attest that all signatories listed above, and on whose behalf this Stipulation  
16 is submitted, have concurred in and authorized the filing of this Stipulation.

17 /s/ Gregory Mauro

18 Gregory Mauro

**CERTIFICATE OF SERVICE**

I hereby certify that on December 14, 2018 I electronically filed the foregoing with the Clerk of the Court for the U.S. District Court, for the Central District of California using the CM/ECF system. All participants are registered CM/ECF users, and will be served by the CM/ECF system.

Dated: December 14, 2018

By: /s/ Gregory Mauro  
GREGORY MAURO, ESQ.